

# **CITY OF BUFFALO**

## **REQUEST FOR PROPOSALS FOR COMPREHENSIVE EMERGENCY MANAGEMENT PLAN AND IMPLEMENTATION STRATEGY CONSULTANT**



### **ISSUE DATE:**

**June 24, 2022**

### **DUE DATE:**

**August 5, 2022 – 4:00 P.M.**

### **RESPOND TO:**

**BUFFALO FIRE DEPARTMENT  
68 COURT ST  
BUFFALO, NY 14202**

### **ATTENTION:**

**MICHAEL C. ANDREWS  
DIRECTOR OF FIRE PERSONNEL**

## **SECTION 1- INTRODUCTION**

The Crisis Management System (CMS) Steering Committee was established to provide strategic planning guidance for all City Emergency Operations Planning. The Buffalo Fire department (BFD) is the City's lead Department for all Steering Committee activities. The BFD will coordinate the development of the Steering Committee's Strategic Goals and planning activities. The primary strategic goal of the CMS Steering Committee is to update the City's Comprehensive Emergency Management Plan (CEMP) and develop an Implementation Strategy to operationalize the CEMP for emergency response planning and execution.

The CEMP will identify the laws, regulations, and policies for emergency operations governance, establish the emergency operations planning process, identify the resources available for emergency response planning, and provide overall guidance to establish the emergency operations organizational structure and standard operating procedures.

## **SECTION 2- INSTRUCTIONS TO OFFERORS**

### ***2.1 General Invitation***

The City invites all interested parties to submit proposals for the services described herein. For purposes of this RFP, the City's designee shall be Michael C. Andrews.

The Department of Fire must receive all proposals in person or via mail by no later than **August 5, 2022 at 4:00 PM EST**. All proposals shall be sealed, clearly labeled on the front of the package and delivered to:

**City of Buffalo  
Michael C. Andrews  
Director of Fire personnel  
68 Court Street  
Buffalo, New York 14202**

The outside of each sealed envelope or package should be labeled:

Proposal Enclosed for

**CONSULTANT FOR COMPREHENSIVE EMERGENCY MANAGEMENT PLAN &  
IMPLEMENTATION**

Proposals Due: \_\_\_\_\_

Submitted by: \_\_\_\_\_

Proposals are solicited in accordance with the terms, conditions and instructions as set forth in this RFP. Submission of proposals via telephone, facsimile, e-mail or any other method not specifically provided for herein is prohibited. Proposals must be completed in accordance with

the requirements of the RFP. No amendments or changes to proposals will be accepted after the closing date and time. No proposals shall be accepted after the stated deadline. The City reserves the right to reject any or all proposals.

Any material misrepresentation made by an Offeror may void their proposal and eliminate their proposal from further consideration. Any proposal that is based upon violation of federal, state or local law, or deemed to be non-responsive will be eliminated from consideration.

The City shall not be responsible for any expenses or charges incurred by an Offeror in preparing or submitting a proposal, or in their providing any additional information considered necessary by the City in the evaluation of their proposal.

## ***2.2 Schedule***

Listed below is the anticipated schedule for all actions related to this RFP. In the event that there is any change or deviation from this schedule, such change will be posted on the City's website at [www.buffalony.gov](http://www.buffalony.gov).

<u>EVENT</u>	<u>DATE</u>
Issuance of RFP	June 24, 2022
Written Questions from Offerors due	July 08, 2022 at 4:00 PM
Responses to Questions posted on City website	July 15, 2022
Pre-Proposal Conference	July 22, 2022
Proposals Due	August 05, 2022 at 4:00 PM
Target Award Date:	TBD

## ***2.3 Pre-Proposal Conference***

Offerors interested in providing these services are strongly encouraged to attend the **pre-proposal conference** to be held on **July 22, 2022 at 11:00 AM** at 68 Court Street, in the Buffalo Fire Department conference room. The conference is intended to provide clarification of these specifications, where needed, and to respond to all technical inquiries. Representatives may not appear on behalf of more than one company. A representative from the City of Buffalo Division of Purchase will also be present to answer questions regarding proposal rules and regulations.

## ***2.4 RFP Review, Additional Information and Questions***

Each Offeror is responsible for carefully examining all RFP documents and thoroughly familiarizing themselves with each of the City's requirements prior to their submission of a proposal to ensure that their responses are in compliance with the RFP.

Each Offeror is responsible for conducting its own investigations and any examinations necessary to ascertain conditions and requirements affecting the requirements of this RFP. Failure to perform such investigations and examinations shall not relieve the Offeror from its obligation to comply, in every detail, with all of the provisions and requirements contained in the RFP.

Questions regarding the RFP shall be directed to the City's designee only. Any impermissible contact with any other City officer or employee regarding the RFP during the procurement period shall result in the rejection of any such Offeror's proposal. Offerors shall communicate in writing only. No other communications with the City's designee regarding the RFP are permitted during the procurement period.

All questions, requests for clarification or additional information must be sent by email to Michael C. Andrews: [mcandrews@bfdny.org](mailto:mcandrews@bfdny.org) and must be received no later than **4:00 PM, July 8, 2022**. The subject line must identify the RFP by title. Offerors shall not communicate with the City's designee via any other method or outside of the time period set forth herein.

The answers to questions received via email and the summary of the pre-proposal conference will be posted on the City's website at [www.buffalony.gov](http://www.buffalony.gov). No other representatives of the City are to be contacted regarding this RFP. The City accepts no responsibility for, and the Offeror agrees not to rely upon, any verbal or written statements or representations from any other person, whether or not employed by the City.

Offerors are solely responsible for ensuring the City has a current address, e-mail address and telephone number on file for the Offeror. It is the responsibility of all Offerors to check the City of Buffalo website for any updates.

The City may, in its sole discretion, also elect to provide both the question(s) and the written answer(s) to all known Offerors via e-mail. Offerors are solely responsible for ensuring that the City has accurate contact information, including e-mail address for the receipt of such correspondence. The City does not assume any responsibility for undelivered e-mails or for the receipt of any communication sent to any Offeror.

## ***2.5 Addendums and Modifications***

The City reserves the right, in its sole discretion, to amend this RFP at any time prior to the deadline for submission of proposals. In the event that it becomes necessary to revise or expand upon any part of this RFP, all addendums, amendments, and interpretations to this RFP will be made in writing and posted on the City's website at [www.buffalony.gov](http://www.buffalony.gov). The City may also endeavor to notify all Offerors to whom the RFP has been issued.

All addendums shall be incorporated as part of the RFP documents as though they were originally set forth. The City does not assume any responsibility for the receipt of any addendum sent to any Offeror.

Any information supplied by the City relative to this RFP must be considered in preparing proposals. All other contacts that an Offeror may have had before or after receipt of this RFP with any individuals, employees, subcontractors, consultants or representatives of the City and any information that may have been read in any news media or seen or heard in any communication regarding this RFP should be disregarded in preparing responses.

## **2.6 Proposal Format**

Offerors are advised to adhere to the submittal requirements of the RFP. Failure to comply with the instructions of the RFP may cause their proposal to be rejected. Submission of a proposal in response to this RFP constitutes acceptance of all requirements outlined in the RFP.

Two (2) copies of the proposal, one (1) original and one (1) copy, along with one (1) digital copy (CD or Flash Drive) must be provided. Proposals must be prepared on 8-1/2" x 11" paper using a font no smaller than 11-point with one-inch margins, printed double-sided, and bound on the long side. The narrative response portion of the proposal is limited to ten (10) double-spaced pages. Each page of the submission must be numbered in a manner so that it can be uniquely identified. Legibility, clarity and completeness are required.

The proposal must be signed by each individual Offeror or their authorized representative who shall have the authority to legally bind the Offeror(s). The proposal shall also contain a statement that the proposal, including all proposed prices, contained therein shall remain firm and irrevocable for a period of ninety (90) days following the City's receipt of such proposal and the award of the contract, if any.

In the event that an Offeror cannot comply with any term, condition, or requirement of this RFP, such non-compliance must be clearly noted on the Offeror's letterhead and submitted with the proposal. Offerors are cautioned that such non-compliance may result in disqualification of their proposal, at the sole discretion of the City. No allowance will be made for un-noted non-compliance of any kind by the Offeror.

## **SECTION 3 - SCOPE OF WORK**

The City of Buffalo Fire Department is requesting proposals for professional services from qualified and experienced consultants to assist the CMS Steering Committee with the upgrade of the City of Buffalo Comprehensive Emergency Management Plan, and to develop an implementation strategy for the new CEMP. Services will include, but may not be limited to the following:

1. Update the City of Buffalo Comprehensive Emergency Management Plan (CEMP)
2. Develop the "Implementation Strategy" for the new CEMP
3. Provide all Hazard Ad – Hoc Committee training and support

## UPDATE CITY’S COMPREHENSIVE EMERGENCY MANAGEMENT PLAN (CEMP)

- a. Reviewing & updating the existing City of Buffalo Comprehensive Emergency Management Plan to ensure it provides overall guidance for all – hazard emergency response planning and execution; to establish “The Rules of Engagement.”
- b. Consultant shall meet and assist the CMS Steering Committee in establishing the required overall guidance and emergency response structure required for all – Hazard emergency response planning and execution.
- c. Research, identify, and list all City, County, State and Federal laws, regulations, and policies required for governance
- d. Research, identify, and list all City, County, State and Federal agency response capabilities and resources (funding, equipment, etc.) available for all – hazard emergency response planning and execution.
- e. Research, identify, and list all City, County, State, and Federal Mutual Aid Agreements and Memorandum of Understandings

## DEVELOP THE IMPLEMENTATION STRATEGY FOR NEW CEMP

- a. Consultant shall meet and assist the CMS Steering Committee in developing the “Implementation Strategy” for the new CEMP.

## ALL HAZARD AD – HOC PLANNING COMMITTEE TRAINING & SUPPORT

- a. Consultant shall provide FEMA CPG 101 training and planning process instructions to the All Hazard Ad – Hoc Planning Committees.
- b. The Consultant shall be required to maintain good standing with all federal, state, local agencies
- c. The Consultant shall be required to attend periodic meeting in the City of Buffalo.

## **SECTION 4 - REQUIRED CONTENT**

1. Provide a summary of related experience of your firm.
2. Complete the attached Consultant Fee schedule.
3. Provide cost breakdowns per project phase and include anticipated hours spent by consultants for each project phase.
4. Prepare a brief statement outlining your availability to work within the allotted time frame. The time frame for this project is estimated to be 60 calendar days. Please note that this timeframe is subject to change.
5. Prepare a brief statement outlining your understanding of the identified scope of work, and your approach to completing the project.

6. Resumes of key personnel identify the person (s), by name, who will oversee the work of this project, specifically the lead Project manager
7. Identify the sub – Consultants your firm will use on this project
8. References - Each Offeror must provide references from at least three (3) customers or of companies or other entities of comparable characteristics as the City of Buffalo, where their services have been successfully implemented
9. Deadline for submittal is: **Friday, August 5, 2022 NLT 4:00 P.M., Buffalo Fire Headquarters 68 Court St Buffalo, N.Y. 14202. Submit 4 hard copies.** Submit one (1) electronic copy to **Michael C. Andrews; mcandrews@bfdny.org**

## **SECTION 5 - EVALUATION AND SELECTION PROCESS**

The City intends to award a contract to the Offeror whose proposal offers the best overall value. However, the City is under no obligation to award any contract, in whole or in part, and it reserves the right in its sole discretion to cancel this RFP process with or without cause at any time before or after closing and has no express or implied obligation to provide reasons for such cancellation.

The evaluation criteria that the City will utilize will be based upon, but not limited to, the Offerors demonstrating their prior proven experience, costs, and any other factors deemed to be in the best interest of the City. All proposals will be evaluated upon, but not necessarily limited to, the following criteria:

### **Weight Factors**

- |   |     |
|---|-----|
| 1. Related Experience/References                                  | 20% |
| 2. Project Approach/Quality Control Process/Availability/Schedule | 20% |
| 3. Fee Schedule   | 20% |
| 4. Availability/ Schedule   | 10% |
| 5. Resumes of key personnel                                       | 10% |
| 6. MWBE   | 20% |

The review of proposals will also include an analysis of each Offeror's minority and women workforce development, policies, and community involvement. Each Offeror must provide demonstrative evidence of how it meets these factors as more fully described in Section 9.3 Executive Order. The weight given to each factor is as follows:

- i. **15%** Minority workforce development, community involvement, and policies.

- ii. **5%** Women workforce development, community involvement and policies

All proposals must contain the required information, along with the proposed fee, including but not limited to all expenses, hourly staff rates, payment terms, and contract terms required by Offerors and conditions and options.

### ***5.1 Basis of Selection***

The process for selecting a winning proposal for this RFP will be an open and fair solicitation process. While total costs will be considered in the award of this RFP, it is not the only factor to be considered. The professional services sought herein are not subject to NYS competitive bidding requirements. Therefore, the lowest cost of any proposal may not necessarily be accepted. The City is under no obligation to award any contract, in whole or in part, and it reserves the right in its sole discretion to cancel this RFP at any time before or after the deadline for receipt of the proposals, without providing reasons for such cancellation. If only one proposal is received, the City reserves the right to reject it.

Representatives of the City of Buffalo Department of Human Resources/Civil Service and Division of Purchase shall oversee this project and evaluate Offerors' responses.

### ***5.2 City's Reservations of Rights***

Upon submission of a proposal in response to this RFP, each Offeror acknowledges and consents to the following conditions relative to the submission and review and consideration of its proposal:

1. All costs incurred by the Offeror in connection with responding to this RFP and for participating in this procurement process shall be borne solely by the Offeror.
2. The City reserves the right, in its sole discretion, to reject for any reason any and all responses or components thereof and to eliminate any and all Offerors responding to this RFP from further consideration for this procurement.
3. The City reserves the right, in its sole discretion, to reject any Offeror that submits incomplete responses to this RFP, or a proposal that is not responsive to the requirements of this RFP.
4. The City reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFP, or otherwise request additional information.



5. All proposals in response to this RFP shall become the property of the City and will not be returned.
6. All proposals in response to this RFP shall constitute public records subject to public disclosure.
7. The City may request that Offerors personally attend or send representatives to the City for interviews and a demonstration of Offeror's proffered services.
8. Any and all proposals in response to this RFP that are not received by the Department of Fire before or at **4:00 PM on August 5, 2022** will be rejected.
9. Neither the City, nor its officers, officials nor employees shall be liable for any claims or damages resulting from the solicitation or preparation of the proposal in response to this RFP.
10. The City of Buffalo's name, logo, crest, etc. shall not be used without prior, expressed, written consent of the City of Buffalo.

The City reserves that it may, in its sole discretion, exercise the following rights and options with regard to this RFP and the procurement process in order to obtain the most advantageous offer for the City:

1. To waive irregularities and/or minor non-compliance by any Offeror with the requirements of this RFP;
2. To request clarification and/or further information from one or more Offerors after closing without becoming obligated to offer the same opportunity to all Offerors; and
3. To enter into negotiations with one or more Offerors without being obligated to negotiate with, or offer the same opportunity, to all Offerors;
4. To reject any or all proposals or parts of proposals, to accept part or all of proposals on the basis of considerations other than lowest cost and to create a project of lesser or greater expense and reimbursement than described in this RFP or the Offeror's proposal based on the component prices submitted;

5. To determine that any proposal received in response to this RFP complies or fails to comply with the terms set forth herein;
6. To determine whether any perceived or actual conflict of interests exists that would affect or impair the award of any contract arising from this RFP to an Offeror(s);
7. To waive any technical non-conformance with the terms of this RFP;
8. To change or alter the schedule for any events called for in this RFP;
9. To conduct investigations of any or all of the Offerors, as the City deems necessary or convenient, to clarify the information provided as part of the proposal and to request additional information to support the information included in any proposal;
10. To suspend or terminate the procurement process described in this RFP at any time. If terminated, the City may determine to commence a new procurement process without any obligation to the Offerors;

Offerors are advised to submit a complete offer as their proposal. Any waiver, clarification or negotiation will not be considered an opportunity for Offerors to correct errors contained in their proposals.

## **SECTION 6 - AWARD OF CONTRACT**

While it is anticipated that the work required for this project be completed within the 60 day time frame set forth in Section 4 of this RFP. At the discretion of the City, the Offeror may be awarded up to a one (1) year contract within which to complete the assignment, with the option to renew upon the mutual agreement of the parties for up to one (1) one (1) year term. Any extension of the agreement must be in writing and the only condition that shall be permitted to be altered or changed in any extension is the sum to be paid the Offeror and the method of computing the same. Any changes to the contract must be submitted in writing and agreed upon in writing by both parties thirty (30) days in advance.

The contract with the successful Offeror (if any) shall include the terms of this RFP together with those terms of the Offeror's proposal, which are not inconsistent with the RFP, and which have been specifically accepted by the City of Buffalo.

## **SECTION 7 – INDEMNIFICATION/HOLD HARMLESS**

For any contract arising from this solicitation, the successful Offeror(s) shall defend, indemnify and save harmless the City and its officers and employees from all claims, suits, actions, damages, losses, and costs of every name, nature, and description to which the City may be subjected or put by reason of any injury to the person or property of another, or the property of the City, resulting from the negligence or carelessness, active or passive, of the Offeror, its employees, agents or subcontractors, in the performance of any work under the contract. This provision shall include, but not be limited to, all losses, costs, and damages, which the City may suffer as a result of any negligent supervision of services or by reason of injury to the person or property of another, or the property of the City, resulting from the negligence or carelessness, active or passive, of the Offeror its or their employees, agents, or subcontractors, or the joint negligence, active or passive, of the Offeror and others, in the performance under the contract.

In addition to and in furtherance of the foregoing indemnity, the insurance coverage described herein must include language that states that the insurance carrier will defend the City for any and all claims arising or resulting from the contract. Furthermore, the whole, or so much of the money to become due under the contract as shall be considered necessary by the City, may be retained by it until all suits or claims for damages shall have been settled or otherwise disposed of, and evidence to that effect furnished to the satisfaction of the City.

## **SECTION 8 - INSURANCE COVERAGE REQUIREMENTS**

The City of Buffalo requires insurance coverage as listed below for this work. Note: The term "Offeror" shall also include their respective agents, representatives, employees or subcontractors; and the term "City of Buffalo" or "City" shall include their respective officers, agents, officials, employees, volunteers, boards and commissions. The insurance required shall be written for not less than the scope and limits of insurance specified hereunder, or required by applicable federal, state and/or municipal law, regulation or requirement, whichever coverage requirement is greater. It is agreed and understood that the scope and limits of insurance specified hereunder are minimum requirements and shall in no way limit or exclude the City from additional limits and coverage provided.

### **Minimum Scope and Limits of Insurance**

#### ***8.1 Worker's Compensation Insurance and Disability Insurance:***

With respect to all operations the Offeror performs, the Offeror shall carry Worker's Compensation Insurance and Disability Insurance in accordance with the requirements of the laws of the State of New York. Evidence of Worker's Compensation Insurance and

Disability Insurance must be provided on the New York State approved form. The Acord form is not acceptable. Each certificate of insurance evidencing such coverages shall be submitted by the Offeror and must name the City of Buffalo as certificate holder.

### **8.2     *Commercial General Liability:***

With respect to all operations the Offeror performs, the Offeror shall carry Commercial General Liability insurance providing for a total limit of not less than two million dollars (\$2,000,000) per occurrence for each job site or location for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the indemnification provided under the contract. Each annual aggregate limit shall not be less than four million dollars (\$4,000,000). A certificate of insurance evidencing such coverage shall be submitted by the Offeror and must name the City of Buffalo as additional insured and certificate holder under said policy of insurance. The City shall also be named as additional insured and certificate holder under Offeror's excess and umbrella policies.

### **8.3     *Automobile Liability:***

With respect to any owned, non-owned, or hired vehicles the Offeror shall carry Automobile Liability insurance providing at least one million dollars (\$1,000,000) per accident for bodily injury and property damage. A certificate of insurance evidencing such coverage shall be submitted by the Offeror and must name the City of Buffalo as additional insured and certificate holder under said policy of insurance.

### **8.4     *Professional Liability:***

With respect to any damage caused by an error, omission or any negligent acts of the Offeror performed under this contract the Offeror shall carry Professional Liability insurance providing at least two million dollars (\$2,000,000) per claim for any wrongful act. The certificate of insurance evidencing such coverage shall be submitted by the Offeror and must name the City of Buffalo as certificate holder under said policy of insurance.

### **8.5     *"Tail" Coverage:***

If any of the required liability insurance is on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of 24 months, or the maximum time period reasonably available in the marketplace. Offeror shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of the pertinent Contract. If continuous "claims made" coverage is used, Offeror shall be required to keep the coverage in effect for a duration of not less than 24 months from the end of the Contract.

#### **8.6     *Acceptability of Insurers:***

All of Offeror's insurance policies shall be written by insurance companies admitted in New York and licensed to do business in the State of New York or otherwise acceptable to the City's Corporation Counsel in his sole discretion.

#### **8.7     *Subcontractors:***

The Offeror shall require subcontractors to provide the same "minimum scope and limits of insurance" as required herein, with the exception of Errors and Omissions/Professional Liability Insurance unless Errors and Omissions/Professional Liability insurance is applicable to the work performed by the subcontractor. All Certificates of Insurance shall be provided to Corporation Counsel's office as required herein and are subject to approval as to form by the Corporation Counsel and are subject to approval as to sufficiency by the City Comptroller.

#### **8.8     *Aggregate Limits:***

Any aggregate limits must be declared to and approved by the City. It is agreed that the Offeror shall notify the City when fifty percent (50%) of the aggregate limits are eroded during the contract term. If the aggregate limit is eroded for the full limit, the Offeror agrees to reinstate or purchase additional limits to meet the minimum limit requirements stated herein. The premium shall be paid for by the Contractor/Offeror. Deductibles and Self-Insured Retentions: Any deductible or self-insured retentions must be declared to and approved by the City. All deductibles or self-insured retentions are the sole responsibility of the Offeror to pay and/or to indemnify.

#### **8.9     *Notice of Cancellation or Nonrenewal:***

Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in coverage or in limits except upon 30 days prior written notice by certified mail, return receipt requested, given to the City.

#### **8.10    *Waiver of Governmental Immunity:***

Unless requested otherwise by the City, the Offeror and his insurer shall waive governmental immunity as a defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit brought against the City.

#### **8.11    *Additional Insured:***

The liability insurance coverage, except for Workers Compensation and Disability Insurance, required for the performance of the Contract shall include the City of Buffalo as additional insured and certificate holder but only with respect to the Offeror's activities to be performed under the contract. Coverage shall be primary and non-contributory with any other insurance.

### ***8.12 Certificate of Insurance:***

As evidence of the required insurance coverage, the Offeror shall furnish Certificate(s) of Insurance to the City of Buffalo prior to the award of the Contract and prior to the Offeror's commencement of work under the awarded contract. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. Renewals of expiring certificates shall be filed thirty (30) days prior to expiration. The City reserves the right to require complete, certified copies of all required policies at any time.

All insurance documents required should be mailed to:

City of Buffalo  
Michael C. Andrews  
Director of Fire personnel  
68 Court Street  
Buffalo, New York 14202

## **SECTION 9 – GENERAL REQUIREMENTS**

### ***9.1 Non-Discrimination***

The successful Offeror(s) shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, sex, national origin, affection preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era. Such prohibition against discrimination shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

The successful Offeror(s) shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City, setting forth this nondiscrimination clause. In addition, the Offeror(s) shall, in all solicitations or advertisements for employees placed by or on behalf of the Offeror(s), state that all qualified applicants will receive consideration for employment without regard to race, creed, religion, ancestry, sex, national origin, affectional preference, disability, age, marital status or status with regard to public assistance or status as disabled veteran or veteran of the Vietnam era, and comply in all other aspects with the requirements the Buffalo City Code and Ordinances.

## **9.2    *Americans with Disabilities Act Compliance Provisions***

Any Offeror(s) awarded a contract pursuant to an RFP are required to abide by the regulations of the Americans with Disabilities Act of 1990 (ADA) which prohibits discrimination against individuals with disabilities. The Offeror will not discriminate against any employee or applicant for employment because of their disability and will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, discharge, compensation and fringe benefits, classification, referral and training. The ADA also requires offerors associated with the City of Buffalo to provide qualified applicants and employees with disabilities with reasonable accommodation that do not impose undue hardship. Offeror(s) also agree to post in a conspicuous place, accessible to employees and applicants, notices of their policy on non-discrimination.

In the event of the Offeror's noncompliance with the non-discrimination clauses of the contract, the contract may be canceled, terminated, or suspended, in whole or in part, and the Offeror may be declared ineligible by the Buffalo Common Council from any further participation in City contracts in addition to other remedies as provided by law.

## **9.3    *Executive Order 16-04***

The City encourages the selection of individuals, firms and businesses that are active in the recruitment, training and retention of women, blacks, Hispanics and all other minority groups. The inclusion of specific selection criteria for those individuals, firms and businesses desiring to provide professional services to the City, that also considers the firm's recruitment, training and retention of Women, Blacks, Hispanics and all other minority groups, supports and encourages these practices.

Pursuant to Executive Order 16-04, issued in accordance with the laws of the State of New York and Article 2, Sections 2-3 and Article 4, Section 4-1 of the Charter of the City of Buffalo, all City departments are required to incorporate into their Requests for Proposals (RFPs) or Requests for Qualifications (RFQs) for professional services, including but not limited to, legal, architectural, accounting and engineering services, the following:

1. A minimum of fifteen percent (15%) of the total score of the professional services response to an RFP or RFQ issued by the City of Buffalo is to be based on the Offeror's minority workforce development, community involvement and vendor policies;
2. A minimum of five percent (5%) of the total score of the professional services response to a RFP or RFQ issued by the City of Buffalo is to be based on the Offeror's women workforce development, community involvement and vendor policies.
3. The factors to be considered include, but are not limited to, the following:
  - a. Workforce: Offerors should describe any programs or actions they undertake to attract, recruit, train, retain and promote minority and female employees, partners and associates and current representation of minorities and women.
  - b. Community Involvement: Offerors should describe any programs or initiatives they sponsor or support that further the development of minority or women-

owned business enterprises in the City of Buffalo.

- c. Vendor Policies: Offerors should describe any procurement policies or practices they have adopted that provide M/WBE suppliers or services business opportunities.

#### **9.4 General Compliance**

The successful Offeror(s) agrees to comply with all applicable Federal, State and local laws and regulations governing funds provided under this contract.

#### **9.5 Performance Monitoring**

The City will monitor the performance of the successful Offeror(s) against goals and performance standards required herein. Substandard performance as determined by the City will constitute non-compliance with the contract. If action to correct such substandard performance is not taken by the Offeror within a reasonable period of time after being notified by the City, contract termination procedures will be initiated. All work submitted by Offeror shall be subject to the approval and acceptance by the City or its designee(s). The City or its designee(s) shall review each portion of the work when certified as complete and submitted by the Offeror and shall inform the Offeror of any apparent deficiencies, defects, or incomplete work, at any stage of the project.

#### **9.6 Independent Contractor**

Nothing contained in the agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The successful Offeror(s) shall at all times remain an independent contractor with respect to the services to be performed under the contract. Any and all employees of Offeror(s) or other persons engaged in the performance of any work or services required by Offeror under the contract shall be considered employees or sub-offerors of the Offeror only and not of the City; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of New York or any other state, on behalf of said employees or other persons while so engaged in any of the work or services to be rendered herein, shall be the sole obligation and responsibility of Offeror.

#### **9.7 Accounting Standards**

The successful Offeror(s) agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under the contract.



### ***9.8 Retention of Records***

The successful Offeror(s) shall retain all records pertinent to expenditures incurred under the contract for a period of three years after the resolution of all audit findings. Records for non-expendable property acquired with funds under the contract shall be retained for three years after final disposition of such property.

### ***9.9 Inspection of Records***

All records with respect to any matters covered by the contract shall be made available to the City or its designees at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

### ***9.10 Living Wage Policy***

The Buffalo Living Wage ordinance applies to City contracts for services of more than \$50,000 value when the City contracts with a contractor employing more than ten people. The attached City of Buffalo Living Wage Commission Application for Contract with the City of Buffalo must be completed and accompany your response to this Request for Proposals.

### ***9.11 Applicable Law***

The laws of the State of New York shall govern all interpretations of this contract, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Erie, State of New York, regardless of the place of business, residence or incorporation of the Offeror. Each party agrees that all claims and matters shall be heard and determined in any such court and each party waives any right to object to such filing on venue, forum non-convenient or similar grounds. No such actions shall be commenced or maintained against the City unless the contractor shall, not less than sixty (60) days before the commencement or filing of such action(s), submit to the City via certified mail to the address for notices contained herein, an informal complaint specifically detailing each and every perceived allegation or grievance and that the City shall be afforded a reasonable amount of time within which to resolve any such claims.

### ***9.12 Conflict and Priority***

In the event that a conflict is found between provisions in any contract arising from this Request for Proposals, the successful Offeror's Proposal or the City's Request for Proposals, the provisions

in the following rank order shall take precedence: 1) Contract; 2) Request for Proposals; and 3) Offeror's Proposal.

### ***9.13 Ownership of Materials***

All finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials resulting from any contract arising from this RFP shall constitute the property of the City. The City may use, extend, or enlarge any document produced under the contract without the consent, permission of, or further compensation to the Offeror.

### ***9.14 Termination***

The City shall have the unilateral right to terminate any contract awarded hereunder, without cause, upon thirty (30) days written notice to the Offeror.

If termination shall be without cause, the City shall pay the Offeror, all compensation earned to the date of termination. If the termination shall be for breach of this contract by the successful Offeror(s), the City shall pay all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach.

Notwithstanding the above, the Offeror shall not be relieved of liability to the City for damages sustained by the City as a result of any breach of the contract by the Offeror. The City may, in such event, withhold payments due to the Offeror for the purpose of set-off until such time as the exact amount of damages due to the City is determined. The rights or remedies provided for herein shall not limit the City, in case of any default by the Offeror, from asserting any other right or remedy allowed by law, equity, or by statute.

### ***9.15 Assignment***

In accordance with General Municipal Law §109 you are hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of any contract awarded pursuant to the issuance of this RFP, or of any right, title, or interests therein, or the power to execute such contract, to any other person or corporation without the previous consent in writing of the City.

If any Offeror, to whom any contract is let, granted or awarded, as required by law, shall without the previous written consent of the City, assign, transfer, convey, sublet or otherwise dispose of this contract, or any right, title or interest therein, or the power to execute such contract, to any other person or corporation, the City shall have the unilateral right to revoke and annul such contract, and the City shall be relieved and discharged from any and all liability and obligations growing out of such contract to such Offeror, and to the person or corporation to which such contract shall have been assigned, transferred, conveyed, sublet or otherwise disposed of, and such

Offeror, and his assignees, transferees or sub-lessees shall forfeit and lose all moneys, theretofore earned under such contract, except so much as may be required to pay his employees. The provisions of this section shall not hinder, prevent, or affect an assignment by any such Offeror for the benefit of his creditors made pursuant to the laws of the State of New York.

#### ***9.16 Prime Contractor Responsibility***

All sub-contractors will be subject to prior approval by the City. Prior to contract execution, the successful Offeror(s) will be required to furnish the corporate or company name and the names of the officers and principals of all sub-contractors. Notwithstanding any such approval by the City, the successful Offeror(s) shall itself be solely responsible for the performance of all work set forth in any contract resulting from the RFP and for compliance with the price and other terms provided in the contract. The successful Offeror(s) shall cause the appropriate provisions of its proposal and the contract to be inserted in all subcontracts.

The City's consent to or prior approval of any subcontract or subcontractor proposed by an Offeror shall not create or purport to create any obligation of the City to any such subcontractor, or any form of contractual relationship or relationship of privity between the City and the subcontractor. Any Offeror who obtains such approval or consent of the City shall be required to insert a clause so providing in all subcontracts.

#### ***9.17 Disclaimer***

This RFP and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. This RFP is not binding on the City. No other party, including any Offeror to this RFP or further Offerors to any RFP that may be issued by the City, is intended to be granted any rights hereunder. Any response to this RFP, including written documents and verbal communication, with the exception of materials marked as trade secrets or confidential, may be subject to public disclosure by the City, or any authorized agent of the City. Any materials submitted or ideas elicited in response to this RFP shall be the sole and absolute property of the City with the City having title thereto and unrestricted use thereof.

#### ***9.18 Publicity***

All publicity (including, but not limited to, news releases, news conferences, and commercial advertising) relating to this RFP and/or the services or products sought by this RFP and/or any contract awarded pursuant to this RFP shall require the prior written approval of the City.

### ***9.19 Offerors Restricted***

No proposal shall be accepted from or contract awarded to any City employee or official, or any firm in which a City employee or official has a direct or indirect financial interest. No Offeror may be the prime contractor or prime Offeror for more than one proposal submitted pursuant to this RFP. Entities that are legally related to each other or to a common entity may not submit separate proposals as prime contractors or prime Offerors. Any proposal may be rejected that, in the City's sole judgment, does not comply with these conditions. Nothing contained in this RFP is intended to preclude a proposal by a system integrator that proposes to perform the substantive work proposed through sub-contractors.

### ***9.20 New York State Executory Clause***

Any contract(s) arising from this RFP shall be deemed executory only to the extent of monies appropriated and available for the purpose of the contract, and no liability on account thereof shall be incurred by the City beyond the amount of such monies. Neither the full faith and credit nor the taxing powers of the City of Buffalo are pledged to the payment of any amount due or to become due under such contract. It is understood that neither the contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract.

### ***9.21 Copyright and Patent Rights***

The successful Offeror(s) warrants that there are no existing claims of violation and Offeror has no knowledge of any potential claims of violation of copyrights or patent rights in products being proposed in this Request for Proposals as of the date of proposal submittal. Offeror(s) shall indemnify and defend the City in any claim or action brought against the City based upon a claim that the software or hardware provided by the Offeror violated any copyright or patent rights.

### ***9.22 Confidentiality***

All documents, data, or other forms of information collected or received during the development, administration and scoring of the various Police Officer Promotional Examinations, included but not limited to, notes, memoranda, reports, electronic information including information contained on CD's or USB drives, are to be the exclusive property of the City.

All reports, including preliminary findings, interim reports, final recommendations and the work product thereof, shall be the exclusive property of the City, and any duplication, publishing or other use thereof by any person, including the Offeror, without the express authorization of the City, is strictly prohibited.

Any documents prepared by the examination developer, such as training and testing material, should be printed in the jurisdiction of the Offeror, or in a place other than the City of Buffalo or Erie County

The Offeror agrees that neither it nor its employees will at any time or in any manner, either directly or indirectly, use any information for their own benefit, or divulge, disclose or communicate in any manner any information to any third party without the prior written consent of the City, or as may be required by law or the contract. The Offeror will protect the Information and treat it as strictly confidential. The confidentiality provisions shall remain in full force and effect after the termination of any contract formed as a result of this RFP.

### ***9.23 Freedom of Information Law***

The City of Buffalo is subject to the provisions of Article 6 Section 89 of New York State Public Officer's Law, entitled the Freedom of Information Law. All proposals, in their entirety, submitted in response to this Request for Proposal shall constitute a record subject to public disclosure pursuant to the Freedom of Information Law. It is the sole responsibility of each Offeror to this Request for Proposal to identify those portions deemed to constitute a "trade secret" or proprietary information of the commercial enterprise. Any such information shall be clearly marked "CONFIDENTIAL". The phrase trade secret is more extensively defined to include a formula, process, device or compilation of information used in one's business which confers a competitive advantage over those in similar businesses who do not know it or use it. The subject of the trade secret must not be of public knowledge or of a general knowledge in the trade or business. A corresponding letter, on company letterhead, must be provided describing the factors and extent to which the disclosure of the "CONFIDENTIAL" information would cause substantial injury to the competitive position of the commercial enterprise. The entire proposal shall not be marked "CONFIDENTIAL". Any portion of the proposal that is not clearly identified as "CONFIDENTIAL" may be disclosed pursuant to the Freedom of Information Law. **THE CITY OF BUFFALO DOES NOT ASSUME ANY RESPONSIBILITY WHATSOEVER TO ANY OFFEROR IN THE DISCLOSURE OF RECORDS PURSUANT TO THE FREEDOM OF INFORMATION LAW, COURT ORDER, OR ANY OTHER METHOD OF DISCLOSURE PROVIDED FOR UNDER THE LAW**

### ***9.24 Inquiries***

Pursuant to Article IX of New York State Finance Law §139-j, no Offeror shall engage in any impermissible contact with the governmental entity during the "restricted period" for this Request for Proposals. Contact shall include any oral, written or electronic communication with the governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental entities conduct or decision regarding the governmental procurement. The "restricted period" shall mean the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposals, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offeror

intending to result in a procurement contract with the governmental entity and ending with the final contract award and approval by the governmental entity and, where applicable, the State Comptroller. Except as otherwise permitted under State Finance Law §139-j (3), any contact with the governmental entity, other than to discuss current business with the City of Buffalo, or during the question and answer period (via e-mail ONLY) with the person(s) identified below, may result in an Offeror's immediate disqualification.

All inquiries during the question and answer period only should be directed via e-mail only to: Michael C. Andrews: mcandrews@bfdny.org. The subject line must identify the RFP by title.

### ***9.25 Conflicts of Interest***

Confidentiality and lack of potential conflicts of interest is vital to maintaining the integrity of every contract entered into with the City. **Therefore, each Offeror must disclose any perceived, potential or actual conflicts of interests and/or relationships and/or connections.** Such relationships may include, but are not limited to, connections to persons and organizations within the City of Buffalo through:

- A. Professional or Political associations
- B. Political donations
- C. Blood or Marriage
- D. Friendships
- E. City of Buffalo employees who currently work for your company, or come to work for your company during the RFP process, and after (should you receive a contract from the City of Buffalo) as employees or consultants
- F. Union Affiliations/Memberships
- G. Board Member

Each Offeror further agrees that no member of the governing body, officer, employee or agent of the City shall have any pecuniary interest or otherwise, direct or indirect, in the any contract arising from this solicitation.

### ***9.26 Statement of Compliance and Conflict of Interest***

Your signature below denotes that your organization, company or corporation and/or the officers, directors, employees or agents thereof have reviewed and agreed to comply with State Finance Law §139-k. No past or present lobbyist, employee, officer or board member of your organization, company or corporation may contact any past or present City of Buffalo employee, union leader, elected official (City or otherwise) in an attempt to influence the award of this RFP.

Additionally, any potential or identified conflicts of interest shall be disclosed. As conflicts are discovered, they must be disclosed in writing, to the designated contact person identified in the RFP, during the entire RFP, award, contract negotiation, ratification and execution process and even after contract award.

#### **Conflict or Potential Conflict:**

**Signature:** \_\_\_\_\_

**Company:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

### ***9.27 Non-Collusion Certification***

If the Offeror is a corporation, the execution of the non-collusive certification in the form of proposal shall be deemed to include the signing to non-collusion as the act and deed of the corporation. An executed copy of the attached non-collusion certificate, must accompany the proposal.

No proposal shall be considered for an award nor will any award be made to an Offeror where the proposal does not include the statements as to non-collusion as set forth in the form of proposal herein, provided however, that if in any case the Offeror cannot make the foregoing certification, the Offeror shall so state and furnish with the proposal a signed statement which sets forth in detail the reasons therefore. In such event the proposal shall not be considered for award nor shall any award be made unless the City determines that such disclosure was not made for the purpose of restricting competition. In this connection, it should be noted that the fact that an Offeror has published price lists, rates or tariffs covering items being procured or has informed prospective customers of the proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price as being proposed, does not constitute, without more, a disclosure to any other Offeror or to any competitor within the meaning of the non-collusive certification included in the form of proposal.

#### **NON-COLLUSION CERTIFICATION**

**PROJECT NAME:** \_\_\_\_\_

**PROPOSALS/BIDS DUE DATE:** \_\_\_\_\_

\_\_\_\_\_, being duly sworn, deposes and affirms that:

(Name)

I am the, \_\_\_\_\_, with the \_\_\_\_\_

(Title)

(Company Name)

located at \_\_\_\_\_ am familiar with the enclosed proposal

(Company Address)

or bid submitted herein to the City of Buffalo, a municipal corporation with offices located at 65 Niagara Square, Buffalo, New York; and



Where pursuant to New York State General Municipal Law §103-d, every bid or proposal

hereafter made to a political subdivision of the state or any public department, agency or official thereof where competitive bidding is required by statute, rule, regulation or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury, I hereby affirm that the statements contained herein are true:

(a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

## **FEE SCHEDULE**

Please provide your proposed fee for each of the items listed below:

- |   |       |
|---|-------|
| 1. Update City's CEMP                   | _____ |
| 2. Develop Implementation Strategy      | _____ |
| 3. Ad- HOC Committee Training & Support | _____ |

<b>TOTAL CONTRACT FEE</b>	_____
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### NOTES

1. The above fee schedule shall be fully completed and included with your proposal. Payments to Offeror shall be made monthly based on the percentage each task that has been completed. In the event a task is not required or the project is canceled, the Consultant shall be paid only for work completed.
2. Fees quoted for each item shall include all costs associated with the item, including, but not limited to: mileage, reproduction, printing, phone calls, and postage.
3. Prices quoted shall be based on the described Scope of Services.

**FORM 2A – OFFERORS AFFIRMATIVE ACTION STATEMENT**

The \_\_\_\_\_

(Company Name)

hereby states that we will make good faith efforts to ensure a diverse workforce and minority business participation for this proposal/bid in accordance with the City of Buffalo Charter, Chapter 96, Bonds and Contracts.

We will work toward a minority workforce goal of 25%, and woman workforce goal of 5%. In addition, we will work toward a business utilization goal for minority business enterprise of 25% and woman business enterprise of 5%.

\_\_\_\_\_  
(Signature of Authorized representative of Offeror)

Date\_\_\_\_\_

PROPOSALS FAILING TO INCLUDE OR COMPLETE ANY OF THE ABOVE ITEMS WILL BE CONSIDERED NON-RESPONSIVE AND WILL NOT BE ACCEPTED.



## **APPLICATION FOR CONTRACT WITH THE CITY OF BUFFALO**

The City's Living Wage Ordinance applies to contracts for services in which the City pays – or receives – more than \$50,000 per year, and the contractor employs more than ten people. If you are bidding, responding to an RFP, or otherwise planning to make a contract with the City, you must complete this form, which will be forwarded to the Living Wage Commission. Your subcontractors need not file a separate Application, but they must pay a living wage. If you win the contract, you and your subcontractors will file quarterly reports with the Commission.

You must certify that you will pay at least the living wage, which is based on 150% of the federal poverty line for a family of three and adjusted each year. For July 1, 2021 to June 30, 2022, the rate will be \$15.84 per hour.

There are two exceptions to the Ordinance. Professional contracts such as legal, architectural, or engineering services are not covered by the Ordinance. Also, persons employed in construction work covered by prevailing wage laws are exempt. Employers of tipped workers may take a tip credit, so long as tips plus wages equal or exceed the living wage rate.

The City department responsible for the contract should forward the completed Application for Contract of the employer awarded the contract to: Living Wage Commission, c/o Cornell University ILR, 617 Main St., Suite 300, Buffalo, NY, 14203, [lwcbuffalo@gmail.com](mailto:lwcbuffalo@gmail.com).

### ***1. Company Information***

<b>Company Name:</b>	
<b>Executive Officer:</b>	
<b>Address:</b>	

<b>City, State, Zip:</b>	
<b>Phone No.:</b>	
<b>Total No. of Employees:</b>	

**2. Please describe the specific project or service for which the contract is sought:**


**3. Contract Information**

<b>Dollar Value of Your Bid/Contract:</b>	
<b>Identifying City Contract or Project Number:</b>	
<b>Start and End Dates of Contract:</b>	

**4. If you answer "Yes" to any of these, you need not complete parts 5, 6, and 7**

<b>A) Are all persons who will work under the contract construction workers covered by federal or state prevailing wage laws?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>B) Is this a contract for professional services such as legal, architectural, or engineering?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>C) Do you employ less than ten people?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>D) Is the total value of the contract less than \$50,000 per year?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**5. Please describe the employees who will work on this contract. Attach additional sheets as needed.**

<b>Job Title</b>	<b>Duties to be Performed</b>	<b>Hourly Wage</b>


**6. Subcontractors**

<b>Will there be subcontractors?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>If yes, please provide name address, and phone for each subcontractor. Attach additional sheets as needed.</b>	

**7. Please provide a signature by an official of your company with the legal authority to make binding commitments.**

I certify that if awarded a City contract I will fully comply with the Living Wage Ordinance.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_